

IN RE: PETITION FOR RESIDENTIAL
ZONING VARIANCE
S/S North Dakota Ave., 135' W
c/1 Lincoln Avenue
7325 N. Dakota Avenue
15th Election District
7th Councilmanic District
Dennis D. Fitzgerald, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-500-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners having filed a Petition for a Residential Variance, the subject property having been posted and there being no request for a public hearing, this matter is ready for determination. The Petitioners are requesting a variance to allow an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard.

The Petitioners have filed the supporting affidavits, as required by Section 22-26 (b)(1) of the Baltimore County Code. There is no evidence in the file or record to indicate that the subject variance would adversely affect the health, safety and/or general welfare of the public.

In the opinion of the Zoning Commissioner, it is established that the information and affidavits provide sufficient facts that comply with the

requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners. Based upon the information available, the relief should be granted.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of June, 1990 that the Petition for a Zoning Variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard, in accordance with Petitioners' Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall not construct any plumbing, bathroom or kitchen in the subject structure.
3. The Petitioner shall not allow or cause the subject structure to be converted to a second dwelling unit and/or apartment.

4. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

June 20, 1990



Dennis F. Rasmussen
County Executive

Mr. and Mrs. Dennis D. Fitzgerald
1946 Merritt Boulevard
Baltimore, Maryland 21222

RE: Petition for Residential Zoning Variance
Case No. 90-500-A

Dear Mr. and Mrs. Fitzgerald:

Enclosed please find the decision rendered in the above captioned case. The Petition for Residential Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
encl.
cc: Peoples Counsel

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **90-500-A CRITICAL AREA**

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section 400.1 To allow an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reason (indicate hardship or practical difficulty): CONSTRUCT 16' x 24' GARAGE ALONG SIDE HOUSE BECAUSE THERE IS ONLY 3' OF LAND BEHIND THE HOUSE WHERE ZONING LAW REQUIRES GARAGES TO BE

Property is to be advertised and/or posted as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm, under penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City/State/Zip Code
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City/State/Zip Code
Attorney's telephone number

Legal Owner(s):
(Type or Print Name)
Signature
(Type or Print Name)
Signature
Address
City/State/Zip Code
Name, address and phone number of legal owner, contract purchaser or representative to be contacted.
Name
Address

ORDERED by the Zoning Commission of Baltimore County, this 31st day of May, 1990, that the subject matter of this petition be posted on the property on or before the 30th day of May, 1990.

J. Robert Haines
ZONING COMMISSIONER OF BALTIMORE COUNTY

A PUBLIC HEARING HAVING BEEN REQUESTED AND/OR FOUND TO BE REQUIRED, IT IS FURTHER ORDERED by the Zoning Commission of Baltimore County, this 31st day of May, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commission of Baltimore County, in Room 106, County Office Building in Towson, Baltimore County, on the 31st day of May, 1990, at 10 o'clock, A.M.

ESTIMATED LENGTH OF HEARING: 15 MIN. + 1HR.
AVAILANCE FOR HEARING: NOV. (TUES./4/90) - NEXT TWO MONTHS
ALL OTHER: DATE 5-4-90

90-500-A

CRITICAL AREA

ZONING DESCRIPTION

BEGINNING AT A POINT ON THE SOUTH SIDE OF NORTH DAKOTA AVE. WHICH IS 30' WIDE, AT THE DISTANCE OF 135' WEST OF THE CENTERLINE OF LINCOLN AVE WHICH IS 30' WIDE BEING WESTERN MOST 100' OF LOT "4A, BLOCK " IN THE SUBDIVISION OF George Janssen Property - Jones Creek AS RECORDED IN BALTIMORE COUNTY PLAT BOOK # W.P.C. 7, FOLIO # 169 CONTAINING 4750 SQ. FT. ALSO KNOWN AS 7325 NORTH DAKOTA AVE. AND LOCATED IN THE 15TH ELECTION DISTRICT.

Baltimore County
Zoning Commissioner
County Office Building
121 West Chesapeake Avenue
Townson, Maryland 21204

receipt

Account: R-601-6150
Number: No 2365

Date
CASHIER VALIDATION
Please make checks payable to: Baltimore County

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townson, Maryland

District: 15th Date of Posting: 5/29/90
Posted for: Variance
Petitioner: Dennis D. Fitzgerald, et ux
Location of property: 7325 N. Dakota Ave., 135' W. of Lincoln Ave.
Location of Sign: 7325 N. Dakota Ave., corner N. E. Lee & W. 10th
Remarks: properly signed by Petitioner
Posted by: [Signature] Date of return: 6/1/90
Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

May 17, 1990



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Dennis D. Fitzgerald
7325 N. Dakota Avenue
Baltimore, Maryland 21219

Re: *CASE NUMBER: 90-500-A
ITEM NUMBER: 382
LOCATION: 7325 N. Dakota Avenue

Dear Petitioner:

Please be advised that your Petition for Residential Zoning Variance has been assigned the above case numbers. *Any contact made to this office should reference this number.

After the closing date to file a request for hearing has passed, the file will be taken to the Zoning Commissioner for review. You will next receive from this office:

1) Notice that a formal request for hearing has been filed, taking the matter out of the administrative process. This will mean advertising and reposting of the property and a public hearing to be scheduled approximately 30 - 45 days from receipt of said notice.

OR

2) Notice that the matter has completed the administrative process and that you may return the sign/post and pick-up your Order.

Very truly yours,
[Signature]
J. Stephens

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE: _____



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Dennis D. Fitzgerald
7325 N. Dakota Avenue
Baltimore, Maryland 21219

Re: *CASE NUMBER: 90-500-A
ITEM NUMBER: 382
LOCATION: 7325 N. Dakota Avenue

Dear Petitioner(s):

No hearing having been requested by your neighbors or by the Zoning Commissioner, the above matter has completed the Administrative process.

Please bring the sign and post to 111 W. Chesapeake Avenue, Towson, Maryland, Room 113 at your earliest convenience. When you return the sign and post, you will be given a copy of the written Order relative to this case.

Thank you for your cooperation.

Very truly yours,

G. G. Stephens
(301) 887-3391

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

May 18, 1990



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Dennis D. Fitzgerald
7325 N. Dakota Avenue
Baltimore, MD 21219

RE: Item No. 382, Case No. 90-500-A
Petitioner: Dennis D. Fitzgerald
Petition for Residential Variance

Dear Mr. & Mrs. Fitzgerald:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this 15th day of June, 1990.

J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

Chairman,
Zoning Plans Advisory Committee

Petitioner: Dennis D. Fitzgerald, et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: May 22, 1990
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Dennis D. Fitzgerald, et ux, Item No. 382

The Petitioners request a Variance to allow an accessory structure to be located in the side yard in lieu of the required rear yard.

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

FK/JL/cmm

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Reincke
Chief

MAY 23, 1990



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

FF: Property Owner: DENNIS D. FITZGERALD
Location: #7325 NORTH DAKOTA AVENUE
Item No.: 382
Zoning Agency: MAY 29, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]* Noted and Approved
Planning Section
Special Inspection Division

JY/REK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner
DATE: August 2, 1990

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 382
Fitzgerald Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 7325 North Dakota Avenue in Fort Howard. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. and Mrs. Dennis Fitzgerald

APPLICANT PROPOSAL

The applicant has requested a variance from section 400.1 of the Baltimore County Zoning Regulations "to allow an accessory structure (detached garage) to be located in the side yard in lieu of the required rear yard."

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- Conserve fish, wildlife and plant habitat; and
- Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

Memo to Mr. J. Robert Haines
August 2, 1990
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Finding: The proposed building site is located outside of the 100 foot buffer, therefore no disturbance of the buffer shall occur.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." <Baltimore County Code Sec. 22-98>

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site, therefore no dredging or filling of wetland shall occur.

3. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Finding: The applicant proposes to remove an existing porch so that the sum of all man made impervious surfaces equals 15% of the lot. No further impervious surfaces shall be allowed on the lot.

4. Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland of at least 15% <COMAR 14.15.02.04 C.(5)>.

Finding: The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 2 items - ball and burlap or 2 gallon container size

Tree list: 3 items - minimum 4 foot size

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

Memo to Mr. J. Robert Haines
August 2, 1990
Page 3

5. Regulation: "The stormwater management system shall be designed so that:

(1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;

(2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and

(3) Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.

(4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" <Baltimore County Code, Section 22-217(h)>.

Findings: In order to comply with the above regulation, rooftop runoff from the proposed garage shall be directed through downspouts and into Dutch drains or seepage pits (see attached drainage information sheet). This will encourage maximum infiltration of stormwater and decrease the amount of runoff leaving the site.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

Upon compliance with Chesapeake Bay Critical Area Regulations, this project will be approved. If there are any questions, please contact Mr. David C. Flowers at 887-2904.

[Signature]
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:ju
Attachment

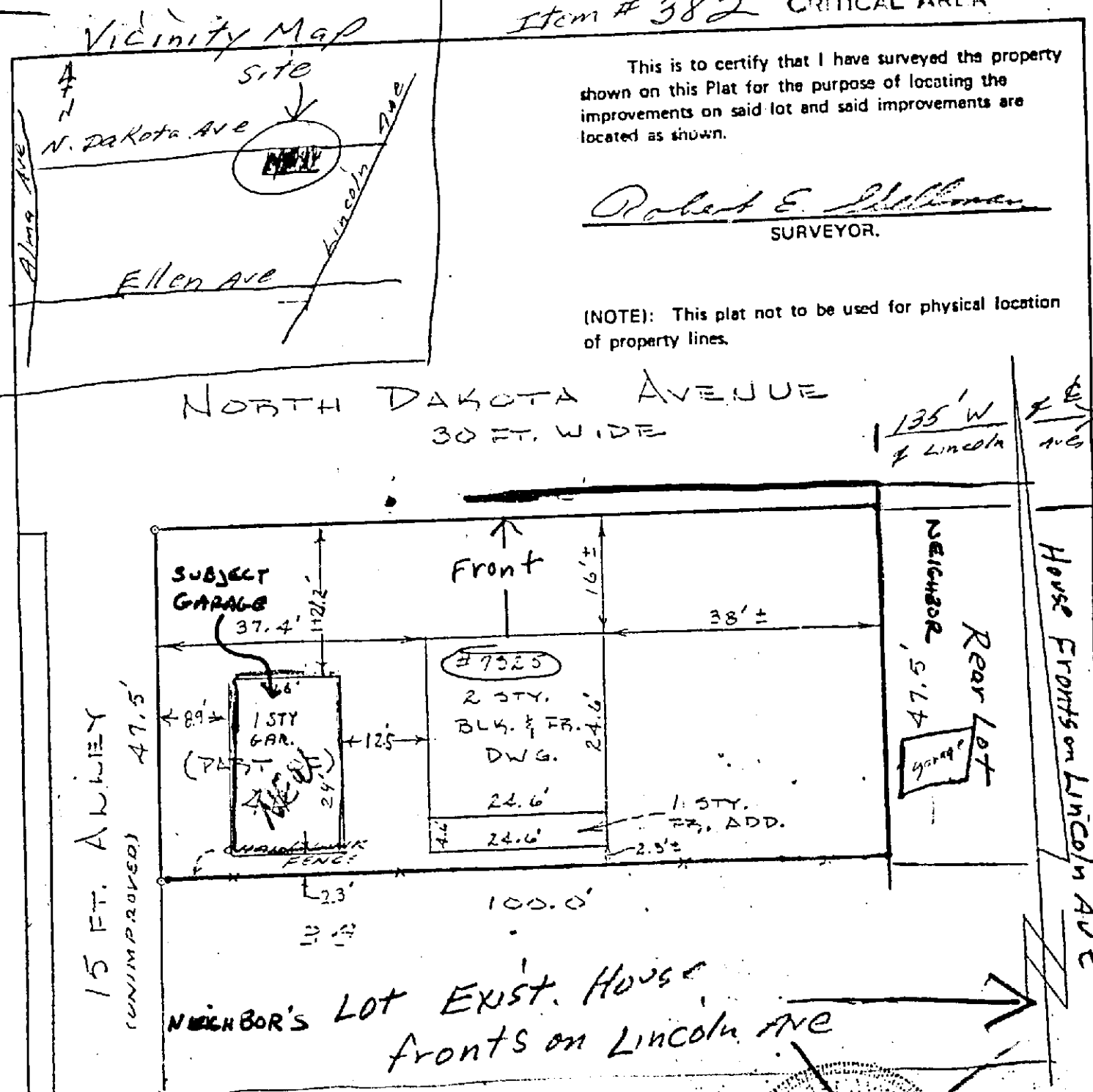
cc: The Honorable Ronald B. Hickernell
The Honorable Norman W. Lauenstein
The Honorable Dale T. Volz

Item # 382 CRITICAL AREA

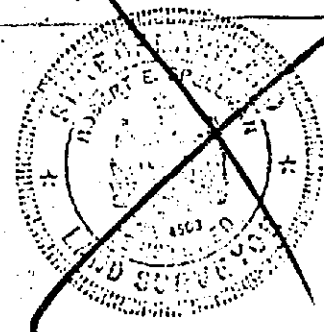
This is to certify that I have surveyed the property shown on this Plat for the purpose of locating the improvements on said lot and said improvements are located as shown.

Robert E. Spellman
SURVEYOR.

(NOTE): This plat not to be used for physical location of property lines.



90-500-A



WESTERNMOST 100 FT. OF LOT 4A
PLT OF LAND BELONGING TO
GEORGE JANSSEN
PLAT BOOK W.P.C. 7, FOLIO 169

SPELLMAN, LARSON & ASSOCIATES, INC.
110 JEFFERSON BLDG., TOWSON, MARYLAND

SCALE: 1" = 20' JAN. 27, 1977

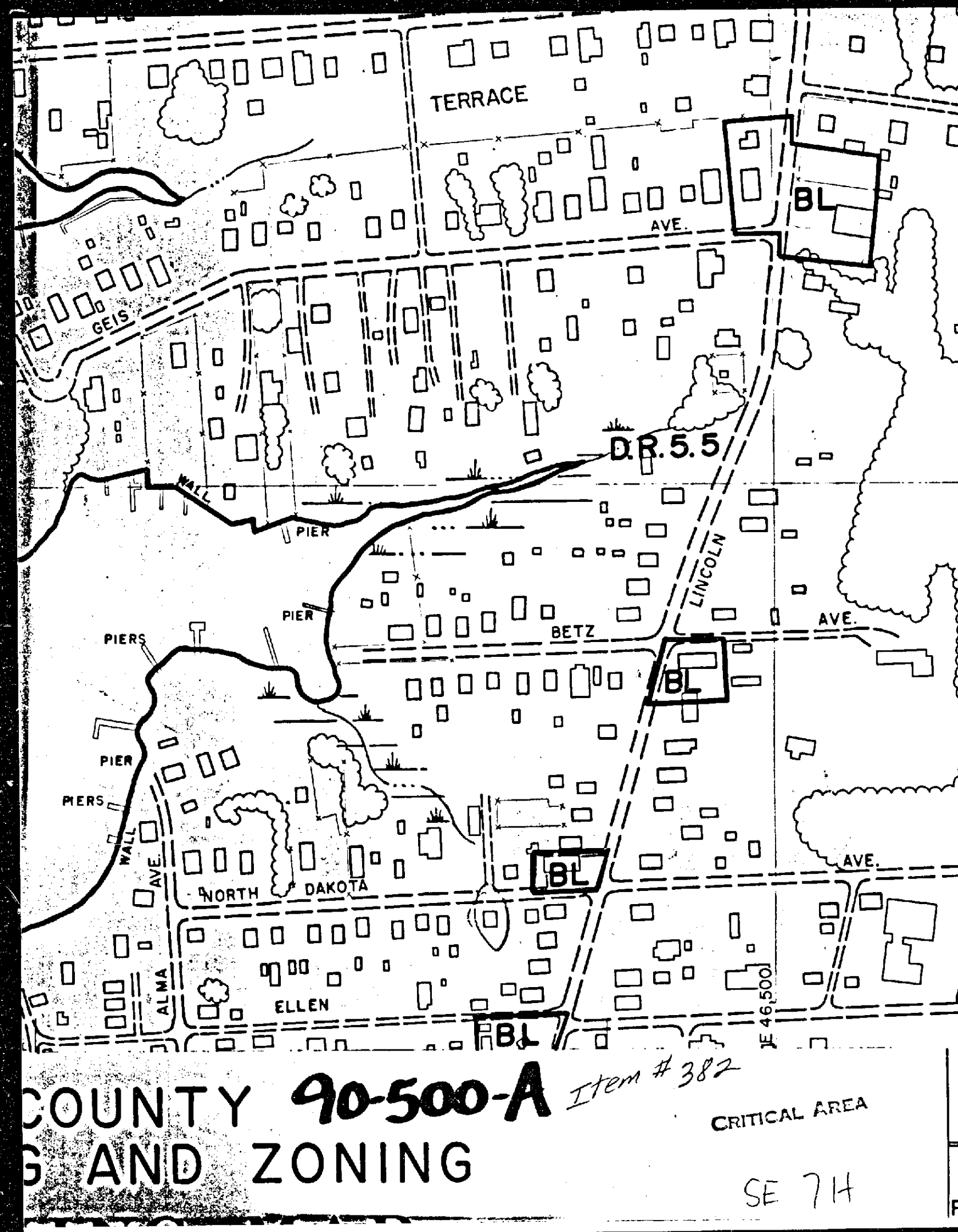
887-3391

Zoning: DR-5.5
Lot size: 4750 ±
Elect. dist: 15

Co. District: 7th
Existing utilities in N. Dakota Ave.
Property is in Critical Area

Plat for a Zoning Variance
Dennis & Donna Fitzgerald, owners.

Petitioner's Exhibit 1



COUNTY 90-500-A Item # 382
G AND ZONING

CRITICAL AREA

SE 74